

By Urbe

4 B. No. 1836

A BILL TO BE ENTITLED

AN ACT

relating to certification of nurse midwives by the Board of Nurse
Examiners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 71, Revised Civil Statutes of Texas, 1925,
as amended, is amended by adding Article 4528e to read as follows:

Art. 4528e. CERTIFIED NURSE MIDWIVES

Sec. 1. A person may not represent himself or herself as a
certified nurse midwife unless the person has a certificate issued
under this article.

Sec. 2. An applicant for a nurse midwife certificate must:

(1) submit to the Board of Nurse Examiners a completed
application;

(2) pay to the board an application fee of \$15;

(3) be a registered nurse under the laws of the state; and

(4) successfully complete nurse midwife training or
education prescribed by the board that is more advanced than the
midwifery training or education required of an applicant for
licensing as a registered nurse.

Sec. 3. A person who complies with the application
requirements of Sections 2(1)-(3) of this article and who holds a
certificate issued by the American College of Nurse-Midwives before
the effective date of this article is entitled to a nurse midwife
certificate.

1 Sec. 4. The Board of Nurse Examiners shall issue a nurse
2 midwife certificate to a person who complies with Section 2 or 3 of
3 this article.

4 Sec. 5. A nurse midwife certificate is valid for as long as
5 the certificate holder is a registered nurse under the laws of this
6 state.

7 Sec. 6. The Board of Nurse Examiners may deny, suspend, or
8 revoke a nurse midwife certificate in the same manner and for the
9 same reasons that it may deny, suspend, or revoke a certificate of
10 registration for a registered nurse.

11 Sec. 7. A certified nurse midwife may engage in the
12 following conduct if the conduct is performed under a physician's
13 instructions that comply with Section 8 of this article:

14 (1) assist a woman in a childbirth that is normal and
15 uncomplicated;

16 (2) manage a woman's pregnancy that is normal and
17 uncomplicated;

18 (3) perform and repair an episiotomy;

19 (4) assess the physical or mental health of a woman during
20 her prenatal or postpartum stage by recording and asking questions
21 about the individual's health or social history;

22 (5) initiate laboratory tests for a woman during her
23 prenatal or postpartum stage;

24 (6) interpret information collected as provided by
25 Subdivision (4) of this section to form and initiate a health care
26 plan for the woman;

27 (7) recognize deviations in the health of a woman during her

1 prenatal or postpartum stage, consult with an appropriate health
2 care professional about the deviations, or refer the woman to an
3 appropriate health care professional; or

4 (8) provide or administer a medication or other therapeutic
5 agent.

6 Sec. 8. A physician's instructions, commonly referred to as
7 protocol or standing orders, under which a certified nurse midwife
8 may perform the conduct listed by Section 7 of this article, must:

9 (1) be in writing;

10 (2) be signed by the physician and the certified nurse
11 midwife;

12 (3) be formed after the physician consults the certified
13 nurse midwife about the certified nurse midwife's conduct that is
14 to be guided by the instructions; and

15 (4) be reviewed semi-annually by the physician and changed
16 if the physician considers it necessary.

17 SECTION 2. Section 8, Chapter 107, Acts of the 41st
18 Legislature, Regular Session, 1929, as amended (Article 4542a,
19 Vernon's Texas Civil Statutes), is amended to read as follows:

20 Sec. 8. It shall be unlawful for any person who is not a
21 registered pharmacist under the provisions of this Act to compound,
22 mix, manufacture, combine, prepare, label, sell, or distribute at
23 retail or wholesale any drugs or medicines, except in original
24 packages. Provided that all persons now registered as pharmacists
25 in this State shall have all the rights granted to pharmacists
26 under this Act. Provided, however, that nothing in this Act shall
27 apply to or interfere with any licensed practitioner of medicine,

1 dentistry, [~~or~~] chiropody, or nurse midwifery, who is duly
2 registered as such by his respective State Board of Examiners of
3 this State, who shall supply his or her patients, as a physician,
4 dentist, [~~or~~] chiropodist, or nurse midwife, and by them employed
5 as such, with such remedies as he or she may desire and who does
6 not keep a pharmacy, open shop, or drug store, advertised or
7 otherwise, for the retailing of medicines or poisons; and provided,
8 further, that nothing contained in this Act shall be construed to
9 prevent the personal administration of drugs and medicines carried
10 by any physician, surgeon, certified nurse midwife, dentist,
11 chiropodist, or veterinarian licensed by his respective Board of
12 Examiners of this State, in order to supply the immediate needs of
13 his patients; nor to prevent the sale by persons, firms, joint
14 stock companies, partnerships, or corporations, other than
15 registered pharmacists, of patent or proprietary medicines, or
16 remedies and medicaments generally in use and which are harmless if
17 used according to instructions as contained upon the printed label,
18 with the exception, however, of exempt narcotics; and insecticides
19 and fungicides and chemicals used in the arts, when properly
20 labeled; nor insecticides or fungicides that are mixed or
21 compounded for purely agricultural purposes.

22 Provided further, this Section shall not apply to:

23 (1) members of the faculty of a reputable college or school
24 of Pharmacy recognized by the Texas State Board of Pharmacy where
25 such faculty members who are registered pharmacists, perform their
26 services for the sole benefit of such school or college, or to

27 (2) senior students of a reputable college or school of

1 Pharmacy recognized by the Texas State Board of Pharmacy who
2 perform their services without pay in the presence and under the
3 direct supervision of a registered pharmacist who is a member of
4 the staff of a reputable college or school of Pharmacy recognized
5 by the Texas State Board of Pharmacy, provided that the sale of
6 such preparations and prescriptions so compounded by such senior
7 students shall be restricted to duly registered students of the
8 college or university attended by such senior students.

9 (3) pharmacist-interns, certified by the Board of Pharmacy,
10 who are graduate students or, if the Board shall so determine,
11 undergraduate students lacking no more than 30 credit hours of work
12 toward their baccalaureate pharmacy degree, both of which are
13 performing their services as a part of their internship in the
14 presence of and under the supervision of a registered pharmacist
15 who has been certified by the Board of Pharmacy as a preceptor for
16 undergraduate or post-graduate internship and who shall be
17 personally responsible to the Board of Pharmacy for the action of
18 the pharmacist-intern.

19 SECTION 3. Articles 4504 and 4504a, Revised Civil Statutes
20 of Texas, 1925, as amended, are amended to read as follows:

21 Art. 4504. CONSTRUCTION OF THIS LAW. Nothing in this
22 Chapter shall be so construed so as to discriminate against any
23 particular school or system of medical practice, nor to affect or
24 limit in any way the application or use of the principles, tenets,
25 or teachings of any church in the ministration to the sick or
26 suffering by prayer, without the use of any drug or material
27 remedy, provided sanitary and quarantine laws and regulations are

1 complied with; and provided further, that all those so ministering
2 or offering to minister to the sick or suffering by prayer shall
3 refrain from maintaining offices, except for the purpose of
4 exercising the principles, tenets, or teachings of the church of
5 which they are bona fide members. The provisions of this Chapter
6 do not apply to dentists, duly qualified and registered under the
7 laws of this State, who confine their practice strictly to
8 dentistry; nor to duly licensed optometrists, who confine their
9 practice strictly to optometry as defined by Statute; nor to duly
10 licensed chiropractors, who confine their practice strictly to
11 chiropractic as defined by Statute; nor to nurses who practice
12 nursing only; nor to certified nurse midwives who perform actions
13 that they are authorized by law to perform; nor to duly licensed
14 chiropodists, who confine their practice strictly to chiropody as
15 defined by Statute; nor to masseurs in their particular sphere of
16 labor; nor to commissioned or contract surgeons of the United
17 States Army, Navy, or Public Health and Marine Hospital Service, in
18 the performance of their duties, and not engaged in private
19 practice; nor to legally qualified physicians of other states
20 called in consultation, but who have no office in Texas, and
21 appoint no place in this State for seeing, examining or treating
22 patients. This law shall be so construed as to apply to persons
23 other than registered pharmacists of this State not pretending to
24 be physicians who offer for sale on the streets or other public
25 places contraceptives, prophylactics or remedies which they
26 recommend for the cure of disease.

27 Art. 4504a. EXCEPTIONS. Nothing in this Chapter shall be so

1 construed as to discriminate against any particular school or
2 system of medical practice, nor to affect or limit in any way the
3 application or use of the principles, tenets, or teachings of any
4 church in the ministration to the sick or suffering by prayer,
5 without the use of any drug or material remedy, provided sanitary
6 and quarantine laws and regulations are complied with; and provided
7 further, that all those so ministering or offering to minister to
8 the sick, or suffering by prayer shall refrain from maintaining
9 offices, except for the purpose of exercising the principles,
10 tenets, or teachings of the church of which they are bona fide
11 members. The provisions of this Chapter do not apply to dentists,
12 duly qualified and registered under the laws of this State, who
13 confine their practice strictly to dentistry; nor to duly licensed
14 optometrists, who confine their practice strictly to optometry as
15 defined by Statute; nor to duly licensed chiropractors who confine
16 their practice strictly to chiropractic as defined by Statute; nor
17 to nurses, who practice nursing only; nor to certified nurse
18 midwives who perform actions that they are authorized by law to
19 perform; nor to duly licensed chiropodists, who confine their
20 practice strictly to chiropody as defined by Statute; nor to
21 masseurs in their particular sphere of labor; nor to commissioned
22 or contract surgeons of the United States Army, Navy or Public
23 Health and Marine Hospital Service, in the performance of their
24 duties, and not engaged in private practice; nor to legally
25 qualified physicians of other states called in consultation, but
26 who have no office in Texas, and appoint no place in this State for
27 seeing, examining, or treating patients. This law shall be so

1 construed as to apply to persons other than registered pharmacists
2 of this State not pretending to be physicians who offer for sale on
3 the streets or other public places contraceptives, prophylactics or
4 remedies which they recommend for the cure of disease.

5 SECTION 4. Section 2(e), Chapter 425, Acts of the 56th
6 Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas
7 Civil Statutes), is amended to read as follows:

8 (e) The term "practitioner" means a person licensed by the
9 State Board of Medical Examiners, State Board of Dental Examiners,
10 State Board of Chiropractic Examiners, and State Board of Veterinary
11 Medical Examiners to prescribe and administer dangerous drugs or a
12 person acting as a nurse midwife certified by the Board of Nurse
13 Examiners.

14 SECTION 5. Section 1.02(24), Texas Controlled Substances Act
15 (Article 4476-15, Vernon's Texas Civil Statutes), is amended to
16 read as follows:

17 (24) "Practitioner" means:

18 (A) a physician, dentist, veterinarian, scientific
19 investigator, nurse midwife, or other person licensed, registered,
20 or otherwise permitted to distribute, dispense, analyze or conduct
21 research with respect to, or to administer a controlled substance
22 in the course of professional practice or research in this state;
23 or

24 (B) a pharmacy, hospital, or other institution licensed,
25 registered, or otherwise permitted to distribute, dispense, conduct
26 research with respect to, or administer a controlled substance in
27 the course of professional practice or research in this state.

1 SECTION 6. This Act does not affect any penalty that was
2 incurred, any civil or criminal liability that arose, or any
3 proceeding that began before the effective date of this Act.

4 SECTION 7. This Act takes effect September 1, 1979.

5 SECTION 8. The importance of this legislation and the
6 crowded condition of the calendars in both houses create an
7 emergency and an imperative public necessity that the
8 constitutional rule requiring bills to be read on three several
9 days in each house be suspended, and this rule is hereby suspended.

H. B. No. 1836

By Ulrich

A BILL TO BE ENTITLED

AN ACT

relating to certification of nurse midwives by the Board of Nurse Examiners.

MAR 8 1979

1. Filed with the Chief Clerk.

MAR 12 1979

2. Read first time and Referred to Committee on Health Services

3. Reported favorably (as amended) and sent to Printer at _____ M.
unfavorably (as substituted) (time)

4. Printed and distributed at _____ M.
(time)

5. Sent to Committee on Calendars at _____ M.
(time)

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote)
(Record Vote of _____ yeas, _____ nays, _____
present, not voting).

7. Motion to reconsider and table the vote by which H. B. _____ was ordered
engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas,
_____ nays, and _____ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed
to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____
present, not voting.

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote
of _____ yeas, _____ nays, _____ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. _____ was finally passed
prevailed (failed) by a (Non-Record) (Record Vote of _____ yeas, _____
nays, and _____ present, not voting).

12. Ordered Engrossed at _____ M.
(time)

13. Engrossed.

14. Returned to Chief Clerk at _____ M.
(time)

15. Sent to Senate.

Chief Clerk of the House

16. Received from the House _____

17. Read, referred to Committee on _____

18. Reported favorably _____

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read
first time.

20. Ordered not printed.

21. Regular order of business suspended by
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

_____ 23. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 24. Caption ordered amended to conform to body of bill.

_____ 25. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.

_____ 26. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION:

OTHER ACTION:

Secretary of the Senate

_____ 27. Returned to the House.

_____ 28. Received from the Senate (with amendments).

_____ 29. House (Concurred) (Refused to Concur) in Senate Amendments by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

_____ 30. Conference Committee Ordered.

_____ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 32. Ordered Enrolled at _____ : _____ M.
(time)